

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

ALEXANDER STYLLER, INTEGRATED
COMMUNICATIONS & TECHNOLOGIES,
INC., JADE CHENG, JASON YUYI, CATHY
YU, CAROLINE MARAFEO CHENG,
PUSHUN CHENG, CHANGZHEN NI,
JUNFANG YU, MEIXIANG CHENG,
FANGSHOU YU, and CHANGHUA NI,

Plaintiffs,

vs.

HEWLETT-PACKARD FINANCIAL
SERVICES COMPANY, HEWLETT-
PACKARD FINANCIAL SERVICES (INDIA)
PRIVATE LIMITED, HP INC., HEWLETT
PACKARD ENTERPRISE COMPANY, and
DAVID GILL

Defendants.

Civil Action No. 1:16-CV-10386 (LTS)

DEFENDANTS' STATUS REPORT

Defendants respectfully submit a brief response to Plaintiffs' filing today [ECF 288] concerning their attempt to supplement the record on their Motion for Reconsideration [ECF 283]. Defendants submit this Status Report in order to clarify the sequence of events referenced in Plaintiffs' filing and to give context to Plaintiffs' reference to the November 20, 2019 letter discussed below. Moreover, to the extent that Plaintiffs seek, for whatever purpose, to suggest they had timely or formally put in issue the date of Defendants' issuance of a formal litigation hold (prior to the November 25, 2019 meet and confer), respectfully, Defendants felt compelled to correct any such misimpression. The Defendants further state as follows:

First, Plaintiff did not meet and confer with Defendants concerning their filing of today prior to making it. If they had, Defendants would have insisted that the record be properly and fully supplemented, which Plaintiffs failed to do in their unilateral filing. Defendants sought and obtained Plaintiffs' consent to file this Status Report.

Second, Plaintiffs selectively quote from Defendants' November 20, 2019 letter to Plaintiffs, stating only that Defendants would "vigorously oppose any application based upon this exchange." Plaintiffs fail to disclose, however, that Defendants informed Plaintiffs that their Motion for Reconsideration was without merit, and specifically any claim that Defendants did not properly preserve ESI was baseless. Defendants attach hereto as Exhibit A their full November 20, 2019 letter. Plaintiffs did not heed Defendants' fair warning and, hours later, filed their Motion for Reconsideration. And, they now misrepresent the parties' exchange.

Third, the parties' November 25, 2019 telephone conference primarily focused on the parties' positions with respect to the remaining case schedule. At the end of that call, for the first time, Plaintiffs' counsel posed one question concerning the precise timing of Defendants' litigation hold notice. Plaintiffs had never previously made that inquiry—not in a document request or interrogatory, not in a deficiency notice, not in a written report to the Court, not at a court status conference, not during any prior telephonic meet and confer conference, and not in their first or renewed motions to compel. Although the Final ESI Protocol was submitted in December 2018 and it was first negotiated prior to April 2018, Plaintiffs first made inquiry regarding Defendants' litigation hold notice just before noon on November 25, 2019, after the Court had denied their Renewed Motion to Compel.

In any event, and as will be discussed in Defendants' upcoming opposition papers, Defendants properly preserved their ESI and issued a litigation hold notice over two years prior to Plaintiffs (which they did on March 5, 2016, per their Supplemental Interrogatory Responses).

Dated: December 6, 2019

GIBBONS P.C.

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By: /s/ Paul A. Saso
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CERTIFICATE OF SERVICE

I, Christina T. Lau, Attorney for Defendants Hewlett-Packard Financial Services Company, Hewlett-Packard Financial Services (India) Private Limited, HP Inc., Hewlett Packard Enterprise Company, and David Gill, hereby certify that the foregoing Status Report was filed using the CM/ECF system and electronic notice will be sent to registered participants as indicated on the Notice of Electronic Filing (NEF) on December 6, 2019.

/s/Christina T. Lau
Christina T. Lau